

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
BRYSON CITY DIVISION
2:11 cr 22-7**

UNITED STATES OF AMERICA,)	
)	
Vs.)	ORDER
)	
KIRSTEN BEAUBIEN MCGILLVRAY,)	
)	
Defendant.)	
_____)	

THIS MATTER has come before the court, pursuant to the court's own Orders (#189 & 204) setting a hearing concerning the issue of presentence release for defendant. At the call of this matter on for hearing it appeared that defendant was present with her attorney Tony E. Rollman and the government was present and represented through Assistant United States Attorney, John Pritchard. From the arguments of counsel for defendant, and the Assistant United States Attorney, and the records in this cause, the court makes the following findings.

Findings. On September 20, 2011 a bill of indictment was issued charging defendant with conspiracy to possess with intent to distribute a quantity of methamphetamine in violation of 21 U.S.C. § 841(a)(1) and 846. On January 10, 2012 the undersigned held an inquiry, pursuant to Rule 11 of the Federal Rules of Criminal Procedure, and accepted a plea of guilty of defendant to the crime described in the bill of indictment. The undersigned considered entered an order detaining

defendant pursuant to 18 U.S.C. § 3143(a)(2) but after hearing an oral motion of defendant, pursuant to 18 U.S.C. § 3145(c) the undersigned found there were exceptional reasons and circumstances that merited the continued release of defendant and entered an Order continuing defendant's release pending sentencing but setting a hearing concerning this continued release for February 27, 2012. On February 27, 2012 the undersigned entered an Order continuing the release of defendant and set a hearing for April 30, 2012 concerning defendant's continued release.

In January 2012 the undersigned considered evidence presented by defendant which showed that defendant was in need of medical treatment for a surgical procedure which included treatment for possible cancer. The undersigned further considered on February 27, 2012 documents that showed defendant needed further care for her medical condition.

The evidence now shows that defendant's medical condition is now resolved and the undersigned cannot find there now exists the exceptional reasons for the continued release of defendant.

At the hearing of this matter the undersigned heard arguments of counsel for defendant and for the government. Counsel for defendant advised that the government had no objection to the continued release of defendant which was confirmed by Mr. Pritchard on behalf of the government. The undersigned has

determined that as a result of the plea of guilty of defendant and there no longer being exceptional reasons, the defendant's detention is mandatory as set forth and prescribed in 18 U.S.C. § 3143(a)(2) and the undersigned is required, pursuant to that statute, to detain defendant pending sentencing.

ORDER

IT IS, THEREFORE, ORDERED, that the terms and conditions of pretrial release of defendant are hereby **REVOKED** and defendant is ordered to be detained pursuant to 18 U.S.C. § 3143(a)(2).

Signed: May 1, 2012

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Dennis L. Howell
United States Magistrate Judge

